

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

FELIPE PLANES,

Petitioner,

CASE NO. 07-CV-14000

v.

JUDGE PAUL D. BORMAN  
MAGISTRATE JUDGE PAUL KOMIVES

MARY K. BERGHUIS,

Respondent.

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**ORDER**

**(1) ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION IN  
FAVOR OF DENYING RESPONDENT'S MOTION TO DISMISS, AND  
(2) REQUIRING RESPONDENT TO FILE AN ANSWER ADDRESSING THE MERITS  
OF PETITIONER'S HABEAS CLAIMS**

Before the Court is Magistrate Judge Paul J. Komives' March 23, 2009 Report and Recommendation in favor of denying Respondent's Motion to Dismiss Petitioner Felipe Planes' application for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 as untimely.

Having reviewed that Report and Recommendation, and there being no objections from either party, the Court hereby:

- (1) **ADOPTS** the Magistrate Judge's Report and Recommendation **DENYING** Respondent's Motion to Dismiss, and
- (2) **ORDERS** the Respondent to file an answer addressing the merits of Petitioner's habeas claims.

**SO ORDERED.**

s/Paul D. Borman  
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PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

Dated: July 31, 2009

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on July 31, 2009.

s/Denise Goodine

Case Manager